

Bylaws of the Board

CONFLICT OF INTEREST

Designated Positions and Disclosure Requirements

1. Persons occupying the following positions are designated employees in Category 1:

Governing Board Members
Superintendent of Schools
Assistant Superintendents

Designated persons in this category must report:

- a. Interests in real property located entirely or partly within District boundaries, or within two miles of District boundaries, or of any land owned or used by the District. Such interests include any leasehold, beneficial, or ownership interest or option to acquire such interest in real property.
- b. Investments or business positions in or income from sources which:
 - (1) are engaged in the acquisition or disposal of real property within the District.
 - (2) are contractors or subcontractors which are or have been within the past two years engaged in work or services of the type regularly used by the District.
 - (3) manufacturer or sell supplies, books, machinery, or equipment of the type used by the District.

CONFLICT OF INTEREST (Continued)

2. Persons occupying the following positions are designated employees in Category 2:

Executive Director of Pupil Services and Instruction
Director of Human Resources
Director of Curriculum, Instruction, and Assessment
Director of Early Intervention
Director of Fiscal Services
Director of Language Acquisition and Development
Director of Maintenance and Operations
Director of Transportation Services and Support
Coordinator, Health Services
Coordinator, Instructional Media Center
Pupil Services Coordinator
Accounting Manager
Benefits/Risk Manager
Facilities Planning Manager
Grounds, Safety, and Maintenance Manager
Lead Fleet Maintenance Transportation Manager
Lead Transportation Manager
Safety and Environmental Manager
Safety, Facilities, and Construction Manager
Student Placement Manager
Transportation Manager
Manager of Information Technology Programming & Support
Manager of Network Services, Computer Hardware Support, & Publishing
Operations
Manager of Purchasing and Warehouse Services & Support
Principals/Associate Principals/Academy Director Feaster-Edison

Designated persons in this category must report investments or business positions in or income from sources which:

- a. are contractors or subcontractors engaged in work or services of the type used by the department which the designated person manages or directs, or

CONFLICT OF INTEREST (Continued)

- b. manufacture or sell supplies, books, machinery, or equipment of the type used by the department which the designated person manages or directs. For the purposes of this category, a Principal's department is his/her entire school.

Designated Positions and Disclosure Requirements

- 3. Consultants are designated employees who must disclose financial interests as determined on a case-by-case basis by the Superintendent or designee. The Superintendent or designee's written determination shall include a description of the consultant's duties and a statement of the extent of disclosure requirements based upon that description. All such determinations are public records and shall be retained for public inspection along with this Conflict of Interest Code.

A consultant is an individual who, pursuant to a contract with the District, makes any of several specified governmental decisions whether to: (2 CCR 18701).

- a. approve a rate, rule, or regulations.
- b. adopt or enforce a law.
- c. issue, deny, suspend, or revoke a permit, license, application, certificate, approval, order, or similar authorization or entitlement.
- d. authorize the District to enter into, modify, or renew a contract that requires District approval.
- e. grant District approval to a contract or contract specifications which require District approval and in which the District is a party.
- f. grant District approval to a plan, design, report, study, or similar item.

CONFLICT OF INTEREST (Continued)

- g. adopt or grant District approval of District policies, standards, or guidelines.

A consultant is also an individual who, pursuant to a contract with the District, serves in a staff capacity with the District and in that capacity participates in making a governmental decision as defined in 2 CCR 18702.2 or performs the same or substantially all the same duties for the District that would otherwise be performed by an individual holding a position specified in the District's Conflict of Interest Code (2 CCR 18701).

Exhibit

Adopted: 9/27/94
Reviewed: 2/7/95
Reviewed: 8/31/98
Reviewed: 4/11/00
Reviewed: 2/20/01
Reviewed: 5/21/02
Revised: 9/14/04

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California

Bylaws of the Board

CONFLICT OF INTEREST

Incompatible Activities

Governing Board members shall not engage in any employment or activity which is inconsistent with, incompatible with, in conflict with or inimical to the Board member's duties as an officer of the district. (Government Code 1126)

Conflict of Interest Code

Board members and designated employees shall adhere to the district's conflict of interest code adopted pursuant to the provisions of Government Code 87300. This code shall comprise the terms of the California Code of Regulations, Title 2, Section 18730 and any amendments to it adopted by the Fair Political Practices Commission, together with a district attachment specifying designated positions and the specific types of disclosure required for each position.

Board members and designated employees shall submit statements of economic interests to the district in accordance with requirements of the conflict of interest code. These statements shall be available for public inspection and reproduction. (Government Code 81008) Upon receiving the statements of Board members and the Superintendent, the district shall make and retain copies and shall forward the originals to the code reviewing body. Statements for all other designated employees shall be retained by the district.

When reviewing and preparing conflict of interest codes, the district shall provide officers, employees, consultants and members of the community adequate notice and a fair opportunity to present their views. (Government Code 87311)

The Board shall review the district's conflict of interest code in even-numbered years and send the code reviewing body either an amended code or, by October 1 of that year, a statement to the effect that no change is necessary. (Government Code 87306.5)

Financial Interest

Board members and designated employees shall not be financially interested in any contract made by the Board or in any contract they make in their capacity as Board members or designated employees. (Government Code 1090)

Bylaws of the Board

CONFLICT OF INTEREST (Continued)

A Board member shall not be considered to be financially interested in a contract if any of the exceptions set forth in Government Code 1091.5 apply.

A Board member shall not be deemed to be financially interested in a contract if he/she has only a remote interest in the contract and if the remote interest is disclosed during a Board meeting and noted in the official Board minutes. The affected Board member shall not vote or debate on the matter or attempt to influence any other Board member to enter into the contract. Remote interests are specified in Government Code 1091 (b); they include the interest of a parent in the earnings of his/her minor child. (Government Code 1091)

If a Board member or designated employee determines that he/she has a financial interest in a decision, this determination shall be disclosed and made a part of the Board's official minutes. In the case of a designated employee, this announcement shall be made in writing and submitted to the Board. (Code of Regulations, Title 2, Section 18700)

A Board member shall abstain from voting on personnel matters that uniquely affect a relative of the Board member. A Board member may vote, however, on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. (Education Code 35107)

A relationship within the third degree includes that individual's parents, grandparents and great-grandparents, children, grandchildren and great-grandchildren, brothers, sisters, aunts and uncles, nieces and nephews, and the similar family of the individual's spouse unless the individual is widowed or divorced.

Disqualification for Board Members Who Manage Public Investments

A Board member who manages public investments pursuant to Government Code 87200 and who has financial interest in a decision shall, upon identifying a conflict or potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

1. Publicly identify the financial interest that gives rise to the conflict or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required. (Government Code 87105)

Bylaws of the Board

CONFLICT OF INTEREST (Continued)

2. Recuse himself/herself from discussing and voting on the matter, or otherwise acting in violation of Government Code 87100, This Board member shall not be counted toward achieving a quorum while the item is discussed. (Government Code 87105; 2 CCR 18702.5)
3. Leave the room until after the discussion, vote and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters. (Government Code 87105)
4. If the item is on the consent calendar, the Board member must recuse himself/herself from discussing or voting on that matter, but the Board member is not required to leave the room during the consent calendar. (2 CCR 18702.5)

The Board member may speak on the issue during the time that the general public speaks on the issue. The Board member shall recuse himself/herself from voting on the matter and leave the dais to speak from the same area as members of the public. He/she may listen to the public discussion of the matter with members of the public. (Government Code 87105; 2 CCR 18702.5)

If the Board's decision is made during closed session, the public identification may be made orally during the open session before the Board goes into closed session and shall be limited to a declaration that his/her recusal is because of a conflict of interest pursuant to Government code 87100. The Board member shall not be present when the decision is considered in closed session or knowingly obtain or review a recording or any other non-public information regarding the Board's decision. (2 CCR 18702.5)

Gifts

Board members shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law. (Government Code 89503)

Designated employees shall not accept from any single source in any calendar year any gifts in excess of the prevailing gift limitation specified in law if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. (Government Code 89503)

Bylaws of the Board

CONFLICT OF INTEREST (Continued)

The above limitations on gifts do not apply to wedding gifts and gifts exchanged between individuals on birthdays, holidays and other similar occasions, provided that the gifts exchanged are not substantially disproportionate in value. (Government Code 89503)

Gifts of travel and related lodging and subsistence shall be subject to the above limitations except as described in Government Code 89506.

A gift of travel does not include travel provided by the district for Board members and designated employees. (Government Code 89506)

Honoraria

Board members shall not accept any honorarium, which is defined as any payment made in consideration for any speech given, article published, or attendance at any public or private gathering. (Government Code 89501, 89502)

Designated employees shall not accept any honorarium as defined above if the employee would be required to report the receipt of income or gifts from that source on his/her statement of economic interests. (Government Code 89502)

The term "honorarium" does not include: (Government Code 89501)

1. Earned income for personal services customarily provided in connection with a bona fide business, trade or profession unless the sole or predominant activity of the business, trade or profession is making speeches.

Any honorarium which is not used and, within 30 days after receipt, is either returned to the donor or delivered to the district for donation into the general fund without being claimed as a deduction from income for tax purposes.

Legal Reference:

EDUCATION CODE

1006 Qualifications for Holding Office

35107 School District Employees

35230-35240 Corrupt Practices

35233 Prohibitions Applicable to Members of Governing Boards

35239 Compensation for board members in districts under 70 ADA

Bylaws of the Board

CONFLICT OF INTEREST (Continued)

GOVERNMENT CODE

1090-1098 Prohibitions Applicable to Specified Officers

1125-1129 Incompatible Activities

81000-91015 Political Reform Act of 1974, Especially

82011 Code Reviewing Body

82019 Definition of designated employee

82028 Definition of gifts

82030 Definition of income

87100- 87103.6 General prohibitions

87200- 87210 Disclosure

87300- 87313 Conflict of interest code

87500 Statements of economic interests

89501-89503 Honoraria and Gifts

91000- 91014 Enforcement

CODE OF REGULATIONS. TITLE 2

18100-18997 Regulations of the Fair Political Practices Commission, especially:

18702.5 Public identification of a conflict of interest for Section 87200 filers

COURT DECISIONS

Thorpe v. Long Beach Community College District, (2000) 83 Cal.App.4th. 655

Kunec v. Brea Redevelopment Agency, (1997) 55 Cal.App.4th 511

ATTORNEY GENERAL OPINIONS

86 Ops.Cal.Atty.Gen. 138(2003)

85 Ops.Cal.Atty.Gen. 60 (2002)

82 Ops.Cal.Atty.Gen. 83 (1999)

81 Ops.Cal.Atty.Gen. 327 (1998)

80 Ops.Cal.Atty.Gen. 320 (1997)

69 Ops.Cal.Atty.Gen. 255 (1986)

68 Ops. Cal. Atty. Gen. 171 (1985)

65 Ops. Cal. Atty. Gen. 606 (1982)

Management Resources

WEB SITES

Fair Political Practices Commission: <http://www.fppc.ca.gov>

Adopted: 9/27/94

Revised: 2/21/95

Revised: 12/12/95

Revised: 9/3/96

Revised: 9/14/04

CHULA VISTA ELEMENTARY SCHOOL DISTRICT
Chula Vista, California